

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE COMMISSIONER OF COMMERCE

In the Matter of Home Maintenance Tech,
Inc. d/b/a Case Handyman Services

**FINDINGS OF FACT,
CONCLUSIONS,
AND RECOMMENDATION**

This matter came on for a Prehearing Conference before Administrative Law Judge Allan W. Klein at 1:30 p.m. on June 24, 2004 at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota. Francis Green III, Assistant Attorney General, 900 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101-2127, appeared for the Department of Commerce. No one appeared for Respondent, nor did Respondent contact the Administrative Law Judge to request a continuance of this matter.

NOTICE

This report is a recommendation, not a final decision. The Commissioner of Commerce will make the final decision after a review of the record and may adopt, reject or modify these Findings of Fact, Conclusions, and Recommendation. Under Minn. Stat. § 14.61, the Commissioner shall not make a final decision until this Report has been made available to the parties for at least ten days. The parties may file exceptions to this Report and the Commissioner must consider the exceptions in making a final decision. Parties should contact the Commissioner at the address above to learn the procedure for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

Pursuant to Minn. Stat. § 14.62, subd. 1, the Commissioner is required to serve its final decision upon each party and the Administrative Law Judge by first class mail.

STATEMENT OF ISSUES

1. Did Respondent fail to respond to requests for information relating to the complaint of Robert Morris, that Respondent engaged in building contractor activities without first obtaining required permits, in violation of Minn. Stat. § 45.027, subd. 1a?

2. Did Respondent fail to reduce the terms of the Charlotte Abramson contract to writing, in violation of Minn. R. 2891.0030?

3. Did Respondent contract to perform plumbing work with Charlotte Abramson that was outside the scope of its building contractor license, in violation of Minn. R. 2891.0040, subp. 1G?

4. Did Respondent engage in building contractor activities on the Allan Bates project without first obtaining required permits and schedule necessary inspections in violation of Minn. Stat. § 326.91, subd. 1(2) and Minn. R. 2891.0040, subp. 1H?

5. Did Respondent contract to perform electrical work on the Allan Bates project that was outside the scope of its building contractor license, in violation of Minn. R. 2891.0040, subp. 1G?

6. Did Respondent engage in building contractor activities on the Kris Barrie project without first obtaining required permits in violation of Minn. Stat. § 326.91, subd. 1(2) and Minn. R. 2891.0040, subp. 1H?

7. Did Respondent engage in building contractor activities on the Patty Bauchle project without first obtaining required permits and schedule necessary inspections in violation of Minn. Stat. § 326.91, subd. 1(2) and Minn. R. 2891.0040, subp. 1H?

8. Did Respondent contract to perform plumbing work on the Patty Bauchle project that was outside the scope of its building contractor license, in violation of Minn. R. 2891.0040, subp. 1G?

9. Did Respondent engage in building contractor activities on the Beverly Beasley project without first obtaining required permits and schedule necessary inspections in violation of Minn. Stat. § 326.91, subd. 1(2) and Minn. R. 2891.0040, subp. 1H?

10. Did Respondent contract to perform electrical work for Julie Begich that was outside the scope of its building contractor license, in violation of Minn. R. 2891.0040, subp. 1G?

11. Did Respondent engage in building contractor activities for Julie Begich without first obtaining required permits and schedule necessary inspections in violation of Minn. Stat. § 326.91, subd. 1(2) and Minn. R. 2891.0040, subp. 1H?

12. Did Respondent engage in building contractor activities for the Chris Bennett project without first obtaining required permits and schedule necessary inspections in violation of Minn. Stat. § 326.91, subd. 1(2) and Minn. R. 2891.0040, subp. 1H?

13. Did Respondent contract to perform plumbing work for the Kris Bernadet project that was outside the scope of its building contractor license, in violation of Minn. R. 2891.0040, subp. 1G?

14. Did Respondent engage in building contractor activities for the Chris Berquist project without first obtaining required permits and schedule necessary inspections in violation of Minn. Stat. § 326.91, subd. 1(2) and Minn. R. 2891.0040, subp. 1H?

15. Did Respondent fail to reduce the terms of the Lisa Blazer contract to writing, including a list of materials used, in violation of Minn. R. 2891.0030?

16. Did Respondent contract to perform electrical work for the Susan Branson project that was outside the scope of its building contractor license, in violation of Minn. R. 2891.0040, subp. 1G?

17. Did Respondent engage in building contractor activities for the Betty Bretz project without first obtaining required permits and schedule necessary inspections in violation of Minn. Stat. § 326.91, subd. 1(2) and Minn. R. 2891.0040, subp. 1H?

18. Did Respondent contract to perform electrical and plumbing work for Connie Brock that was outside the scope of its building contractor license, in violation of Minn. R. 2891.0040, subp. 1G?

19. Did Respondent engage in building contractor activities for Connie Brock without first obtaining required permits and schedule necessary inspections in violation of Minn. Stat. § 326.91, subd. 1(2) and Minn. R. 2891.0040, subp. 1H?

20. Did Respondent contract to perform electrical work for Candace Brooks that was outside the scope of its building contractor license, in violation of Minn. R. 2891.0040, subp. 1G?

21. Did Respondent engage in building contractor activities for the Mary Brown project without first obtaining required permits and schedule necessary inspections in violation of Minn. Stat. § 326.91, subd. 1(2) and Minn. R. 2891.0040, subp. 1H?

22. Did Respondent fail to reduce the terms of the Mary Brown contract to writing, in violation of Minn. R. 2891.0030?

23. Did Respondent engage in building contractor activities for the Bruce Cherland project without first obtaining required permits and schedule necessary inspections in violation of Minn. Stat. § 326.91, subd. 1(2) and Minn. R. 2891.0040, subp. 1H?

24. Did Respondent contract to perform electrical work for Bruce Cherland that was outside the scope of its building contractor license, in violation of Minn. R. 2891.0040, subp. 1G?

25. Did Respondent contract to perform electrical work for Sandy Colomb that was outside the scope of its building contractor license, in violation of Minn. R. 2891.0040, subp. 1G?

26. Did Respondent engage in building contractor activities for the Kathe Connair project without first obtaining required permits and schedule necessary inspections in violation of Minn. Stat. § 326.91, subd. 1(2) and Minn. R. 2891.0040, subp. 1H?

27. Did Respondent contract to perform electrical and plumbing work for the Kathe Connair project that was outside the scope of its building contractor license, in violation of Minn. R. 2891.0040, subp. 1G?

28. Did Respondent engage in building contractor activities for the Christine Denzer project without first obtaining required permits and schedule necessary inspections in violation of Minn. Stat. § 326.91, subd. 1(2) and Minn. R. 2891.0040, subp. 1H?

29. Did Respondent contract to perform electrical work for the Christine Denzer project that was outside the scope of its building contractor license, in violation of Minn. R. 2891.0040, subp. 1G?

30. Did Respondent fail to respond to the Department's requests for information relating to the C.A. Ackard and D.M. Bloomquist complaint (Ackard/Bloomquist), in violation of Minn. Stat. § 45.027, subd. 1a?

31. Did Respondent fail to reasonably supervise its employees and subcontractors on the Ackard/Bloomquist project in violation of Minn. Stat. § 326.91, subd. 1(4)?

32. Did Respondent fail to complete work on the Ackard/Bloomquist project and demonstrate that Respondent is incompetent, untrustworthy, or financially irresponsible, in violation of Minn. Stat. § 326.91, subd. 1(6)?

33. Did Respondent fail to remit the proceeds of payments made on the Ackard/Bloomquist project to subcontractors and suppliers, in violation of Minn. Stat. § 326.91, subd. 1(8)?

34. Did Respondent fail to respond to the Department's requests for information relating to the Elaine Leonard complaint, in violation of Minn. Stat. § 45.027, subd. 1a?

35. Did Respondent fail to reduce the terms of the Elaine Leonard contract to writing, in violation of Minn. R. 2891.0030?

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On May 21, 2004, the Notice of and Order for Prehearing Conference in this matter was served by first class mail upon Home Maintenance Tech, Inc. d/b/a Case Handyman Services, 1710 Douglas Drive North, Suite 202, Golden Valley, MN 55422, and William Wilder (Respondent's Qualifying Person), 4034 Upton Avenue North,

Minneapolis, MN 55412, the last known addresses on file with the Department. The Notice was also served on the Commissioner by certified mail. The Notice informed Respondent of the prehearing conference was scheduled for June 24, 2004. The Notice was not returned to the Department.

2. On June 24, 2004, Respondent failed to appear at the prehearing conference, or to notify the Department or the Administrative Law Judge that it was unable to appear.

3. The Notice of and Order for Prehearing Conference informed Respondent that if it failed to appear at the prehearing conference the allegations against it, set forth in the Notice of and Order for Prehearing Conference, could be taken as true, and a default order could be issued.

4. Because Respondent failed to appear, the company is in default.

5. Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice of and Order for Prehearing Conference are taken as true and incorporated into these Findings of Fact.

6. Discipline of Respondent is in the public interest.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Department of Commerce and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50 and 326.91.

2. The Department has given proper notice of the prehearing conference in this matter and has fulfilled all relevant substantive and procedural requirements of law and rule.

3. Respondent, having made no appearance at the prehearing conference and not requesting any continuance or relief, is in default. Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice of and Order for Prehearing Conference are hereby taken as true.

4. Pursuant to Minn. Stat. § 326.91, subd. 1, the Commissioner may by order deny, suspend, or revoke any license or may censure a licensee, and may impose a civil penalty as provided for in Minn. Stat. § 45.027, subd. 6, if the Commissioner finds that the order is in the public interest, and that the licensee or qualifying person has acted in violation of any of the fourteen subitems in Minn. Stat. § 326.91, subd. 1.

5. Respondent failed to reasonably supervise its employees and subcontractors on the Ackard/Bloomquist project in violation of Minn. Stat. § 326.91, subd. 1(4).

6. Respondent failed to complete contracted-for work on the Ackard/Bloomquist project, thereby demonstrating Respondent is incompetent, untrustworthy, or financially irresponsible, in violation of Minn. Stat. § 326.91, subd. 1(6).

7. Respondent failed to remit the proceeds of payments made on the Ackard/Bloomquist project to subcontractors and suppliers in violation of Minn. Stat. § 326.91, subd. 1(8).

8. Respondent failed to reduce the terms of the Abramson, Blazer, Brown, and Leonard contracts to writing, in violation of Minn. R. 2891.0030.

9. Respondent failed to respond to the Department's requests for information relating to the Morris, Ackard/Bloomquist, and Leonard complaints, in violation of Minn. Stat. § 45.027, subd. 1a.

10. Respondent contracted to perform plumbing work on the Abramson, Bauchle, Bernadet, Brock, and Connair projects that was outside the scope of its building contractor license, in violation of Minn. R. 2891.0040, subp. 1G.

11. Respondent contracted to perform electrical work on the Bates, Begich, Branson, Brock, Brooks, Cherland, Colomb, Connair, and Denzer projects that was outside the scope of its building contractor license, in violation of Minn. R. 2891.0040, subp. 1G.

12. Respondent engaged in building contractor activities for the Bate, Barrie, Bauchle, Beasley, Bennett, Berquist, Bretz, Brock, Brown, Cherland, Connair, and Denzer projects without first obtaining required permits and schedule necessary inspections in violation of Minn. Stat. § 326.91, subd. 1(2) and Minn. R. 2891.0040, subp. 1H.

13. Respondent's conduct constitutes grounds for the Department to take disciplinary action under Minn. Stat. § 326.91, subd. 1.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS RESPECTFULLY RECOMMENDED that the Commissioner take disciplinary action against the license of Respondent.

Dated August 20, 2004

S/ Allan W. Klein

ALLAN W. KLEIN
Administrative Law Judge

Reported: Not recorded